

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 449 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

DHIRU BHAVSINGH PALAS

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner.

MR.HL JANI, AGP, for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 13/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 29-12-1997 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the order of detention.

In the grounds of detention supplied to the petitioner, the detaining authority has placed reliance on six criminal cases registered against the petitioner for offences punishable under sections 454, 457, 380, 114 of the Indian Penal Code. Over and above these criminal cases of theft, the detaining authority has also placed reliance on the statements of witnesses of the alleged incidents of 28-11-97 and 24-11-97 whose names have not been disclosed by the detaining authority in exercise of the power under section 9(2) of the PASA Act.

With regard to the said incidents, it is alleged that the petitioner had gone to the shops of jewellers for selling and/or mortgaging the ornaments purporting to be of the wife of the petitioner and demanded money from the witnesses. When the witnesses suspected them to be stolen ornaments and refused to accept them and part with the amounts demanded from them, the petitioner dragged those witnesses out from their shops on the said respective dates of the incidents and beaten them on the public road. On seeing the incidents, many people gathered and when the petitioner rushed towards the crowd, people started running helter-skelter out of fear and the even tempo of life was disturbed.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true, the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and, therefore, it cannot be contended that the petitioner is involved in committing breach of public order.

In the result, this petition is allowed. The order of detention dated 29-12-1997 is quashed and set aside. The detenu Dhuru Bhavsingh Palas is ordered to be

released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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